

**REMARKS/ARGUMENTS**

Upon entry of this amendment, claims 55-66 and 68-81 are pending in this application and are presented for examination. Claims 55-61, 68, 70, 73, and 75 have been amended. Support for amended claim 55 is found, for example, on page 3, lines 23-33. Claims 56-61, 68, 70, 73 and 75 have been amended to reflect the language used in the amendment to claim 55. Thus, no new matter has been introduced. Reconsideration is respectfully requested.

**Claim objections**

(a) Applicants thank the Examiner for pointing out the error in the lettering of the steps of claims 73 and 75. Applicants have amended claim 55 to delete step c) and have re-lettered the subsequent steps accordingly; thus this objection no longer applies.

(b) Applicants thank the Examiner for pointing out the misspelling of "property" in claim 75. Applicants have made the appropriate correction.

**Claim rejections under 35 U.S.C. § 101**

Claims 55-66 and 68-81 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Specifically, the Examiner has alleged that the invention as claimed does not produce a concrete, tangible, and useful result. In particular, the Examiner alleges that "there is no tangible expression of the correlation of gene and protein expression as a result in a form that is useful to one of skill in the art." See Office Action at page 3. Applicants respectfully traverse.

While it is the Applicants' belief that the unamended claims provide a tangible expression of the correlation of gene and protein expression, in the interest of expediting prosecution, Applicants have amended claim 55 to more clearly claim an embodiment that provides a tangible and useful result of the claimed method of this invention. Claim 55 as amended is directed to the comparison of the correlation of gene and protein expression between two or more biological samples. As such, the claimed method may be applied to compare gene and protein expression patterns in samples such as normal versus diseased tissues, tissues from different stages of embryonic development, cells at different stages of the cell cycle or cellular

maturation, or cells and tissues under different environmental conditions, among other examples of applications. *See* specification at page 3, lines 30-32. As such, the claimed method provides tangible results that would be useful to one of skill in the art in the identification of target proteins for drug discovery and for the identification of diagnostic markers of a variety of diseases, such as cancer, diabetes, heart diseases, and bacterial and viral infections, among other uses. *See* specification at page 4, lines 1-10. Thus, the claimed method would generate a useful, concrete, and tangible result as required under 35 U.S.C. § 101.

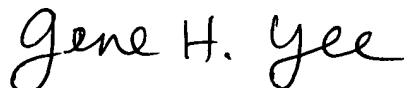
For the foregoing reasons, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 101.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Gene H. Yee  
Reg. No. 57,471

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 925-472-5000  
Fax: 415-576-0300  
Attachments  
GHY:lls  
60807780 v1